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10/736,492	12/15/2003	Dominic Fischer	BOC9-2003-0067 (438)	3797
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AKERMAN SENTERFITT			TERMANINI, SAMIR	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/736,492	FISCHER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Samir Termanini	2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 29 November 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-8, 10-17, 19-26 and 28-30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8, 10-17, 19-26 and 28-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 December 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>N/A</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **BACKGROUND**

1. This Final Office Action is responsive to the following communications:  
Request for Continued Examination (R.C.E.) filed on 11/29/2007.
2. Claim(s) 1-8, 10-17, 19-26, and 28-30 are pending. Claim(s) 1, 10, and 19 are independent in form.

### **RESPONSE TO AMENDMENT**

3. Arguments concerning the Examiner's Rejections of claims 1-8, 10-17, 19-26, and 28-30 under 35 U.S.C. §103(a) in the previous Office Action (Mail dated: 8/6/2007) have been carefully considered but are not persuasive. Therefore, the rejection(s) have been maintained..

4. Arguments concerning the Examiner's Rejections of claims 1-8, 10-17, 19-26, and 28-30 under 35 U.S.C. §103(a) in the previous Office Action (Mail dated: 8/6/2007) have been fully considered but are not persuasive-the Rejections are being maintained for the reasons set forth hereunder.

### **CLAIM REJECTIONS-35 U.S.C. § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-8, 10-17, 19-26, and 28-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Blades* (US Pat No. 5,420,975 A) in view of *White* (US Pat No. 5,386,494 A) and *Namba* (US Pat No. US 5,884,249 A).

As to independent **claim 1**, *White* discloses: A method of aiding a visual search in a list of learnable speech commands (“...menu allows the user to learn the different words or phrases....” col. 9, lines 3-5) comprising: presenting a display list of commands to a user (“This menu will be displayed to the user ” col. 9, lines 20-21). However, *White* does not show (as clearly as the cited secondary reference) measuring an evidentiary value related to the monitoring selection of a command; comparing the evidentiary value to a programmed value to determine if an adjustment criteria has been satisfied; and adjusting the display of the selected command.

*Blades* disclose monitoring whether the user has selected a command (“For each menu, a counter is provided which counts the number of times a user selects the particular menu.” col. 2, lines 58-61); measuring an evidentiary value related to the selected command (“...a minimum menu counter threshold could be set to 50 indicating that the menu must be utilized 50 times...,” col. 3, lines 23-27); comparing the evidentiary value to a programmed value to determine if an adjustment criteria has

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been satisfied ("Thereafter, block 78 illustrates a determination of whether or not a menu option counter divided by the menu counter is greater than the menu threshold for the user." col. 4, lines 22-25); and adjusting the display of the selected command ("In this manner, each user selection of a menu option is utilized in order to continuously and automatically update and alter the display" col. 3, lines 15-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have combined the list of learnable speech commands taught in *White* with the evidentiary value based adjusting of *Blades*. First, the level of ordinary skill in the art at the time of the invention was such that: it was well known that modifying the visual appearance of a command can be accomplished through "visual adjustment" highlighting items in a list of commands to in order to obtain a user's attention (*Blades*, col. 5, lines 65-67). It was further within the level of ordinary skill in the art at the time of the invention to display a list of learnable speech commands for user selection (*White*, col. 10, lines 20-25). And still further, one would have been motivated to use speech commands to improve efficiency of human machine interfaces ("In order to make the human/machine interface even more efficient and user-friendly, computers are being designed to recognize and respond to the user's spoken words." col. 1, lines 60-65). Secondly, both *Blades* and *White* are in analogous art as they are directed to the same problem of presenting selectable menu options commands (*Blades*, col. 1, lines 5-17)(*White*, col. 10, lines 23-25) as well the same field of endeavor of data processing systems ("data processing system," *Blades*, col. 1, lines 8-11; *See also* "data processing system," *White*, see claim 1). Finally, *Blades*, *inter alia*, provides an

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expressly stated motivation: "It should therefore be apparent that a need exists for a method and system for automatically altering a display of user selectable menu options without a direct action by a user." (*Blades*, col. 1, lines 42-45)(emphasis added)

Congruently, *White* suggests that a list of learnable speech commands for user selection "...make[s] locating, identifying, and cataloging alternative commands easier and faster." (col. 2, lines 55-56).

However, the combination of *Baldes et al.* and *White* don't teach measuring and using an evidentiary value comprising a time elapsed between utterances to alter the display of items in a list presented to the user. *Namba* (US Pat No. US 5,884,249 A) teaches using an evidentiary value comprising a time elapsed between utterances ("In this case, there is an advantage in that even if the **interrupt of the timer which counts the elapsed time** [5 seconds in the above-mentioned embodiment] before another pair to be combined is accepted, the recognition result is again returned to the work area 32, so that a semantic analysis unit can be constructed with the pair arriving late. The recognition result within the work area 32 may be operated (or modified) according to the condition of the changed system.," col. 16, lines 24-32)(emphasis added). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the elapsed time as taught in *Namba* as the evidentiary value taught by combination of *Baldes et al.* and *White* because *Namba* teaches:

The input time need not be an actual time. However, identification information which can identify the **input timing can be used** as the input time. For example, in the information processing device, **timing**

information which is represented with the clock pulses used therein **can be handled as the input time**. The information which gives an indication of the timing (**sequence**) of input information, even the time at which any device (or means) accepts the input information, can be used as the input time. For example, the input time is the time at which input information is input to the input device, or the time at which input information is input to the estimating means.

(*Namba* at col. 2, lines 8-20)(emphasis added). And further, *Namba* suggest using this timing information in the same way the applicants claim:

...estimating an input time of the recognition result using an estimating method predetermined for each inputting means; and collecting some of the recognition results **whose estimated input times are close to one another**, and then managing the collected information as a semantic analysis unit.

(*Namba* at col. 2, lines 26-32) (emphasis added).

As to dependent **claims 2 and 4**, which depends from claim 1, *White*, *Blades*, and *Namba* teach the limitations of claim 1, treated above. However, *White* by itself did not show (as clearly as the secondary and tertiary references) the saliency of the display being reduced. *Blades* further teaches saliency of the display being reduced ("If the menu option counter divided by the menu counter is less than the established threshold for the particular menu, the display of the menu option associated with the menu option counter is automatically altered...The display may be altered by dimming the intensity of the display of the menu option, changing the displayed color of the menu option, or any other manner of alteration." col. 3, lines 1-12) if the adjustment criteria has been satisfied ("is less than the established threshold for the particular menu, the display of the menu option associated with the menu option counter is automatically

altered." col. 3, lines 3-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have combined the list of learnable speech commands taught in *White* with the lightening of a selected command based on adjustment criteria of *Blades* because it is taught to be, "...an improved method for the automatic alteration within a data processing system." (*Blades*, col. 1, lines 48-50).

As to dependent **claim 3**, which depends from claim 1, *White* further teach saliency of the display modified ("In turn, each voice pull-down menu contains a list of alternative commands which corresponds to the subject matter portrayed by the voice icons." col. 7, lines 1-15) by moving the selected command down the display list of commands ("The voice pull down menu is displayed when the voice icon associated with that pull down menu is selected. The alternatives may be arranged alphabetically or logically grouped to help the user find the desired alternative." col. 7, lines 1-15). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claim 5**, which depends from claim 1, *White* further disclose(s): saliency of the display being adjusted by moving the selected command up the display list of commands ("thereby shortens the list" col. 9, lines. 5-9; see also "contains alternative command" col. 9, lines. 7-12). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claims 6-7**, which depends from claim 1, *White* further discloses that the saliency of the display are adjusted by darkening or lightening all of the display list of commands except the selected command based on the adjustment criteria

(see fig. 5A; see also "white on black background" col. 7, lines 65). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claim 8**, which depends from claim 1, *White* further discloses that the display list of commands are commands "...to help the user find the desired alternative..."(col. 7, lines 5-15). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claim 28**, which depends from claim 1, *White* further discloses that the display list of commands is reduced by moving the uttered one of said commands from the display list of commands to an inactive location ("then the computer need not do anything further except remove the recognized command [and any alternative commands] from the display screen," col. 10, lines 9-15).

As to **claims 10-17, and 29** these claims differ from claims 1-8, and 28 respectively, only in that they are directed to products defined by the processes of claims 1-8, and 28 respectively. Accordingly, claims 10-17 are rejected for the same reasons set forth in the treatment of claims 1-8, and 28 respectively.

As to **claims 19-26, and 30** these claims differ from claims 1-8, and 28 respectively, only in that they are directed to a "system" defined by the processes of claims 1-8, and 28 respectively. Accordingly, claims 19-26 are rejected for the same reasons set forth in the treatment of claims 1-8, and 28 respectively.

## RESPONSE TO ARGUMENTS

7. Applicant arguments, see pp. 11-13 filed 11/29/2007, with respect to the 35 U.S.C. §103(a) cited by the Examiner in the previous Office Action (Mail dated: 8/6/2007), have been fully considered but are not persuasive.

I. Applicant's arguments (see Remarks filed, 11/29/2007) emphasize:

Blades nowhere contemplates any type of time-based measurement. Blades does not evaluate any time values whatsoever. Rather, Blades "counts" the number of times that a user selects a menu. In portions of the reference cited in the Office Action as disclosing measuring an evidentiary value, Blades describes a "counter" for counting the number of times that a user selects a particular menu: "For each menu, a counter is provided which counts the number of times a user selects the particular menu. Each time menu 22 is selected, its associated counter is incremented.

(page 11, Remarks). The Examiner agrees that Blades is deficient in this respect. It is for this reason that motivations from analogous art, were used to show how other teachings from *White* and *Namba* combined to suggest the claimed limitations. The examiner agrees that *Blades* is deficient in some regards, however, *White* and *Namba* were relied on by the examiner for these particular limitations. Applicant argues which are absent from *Blades*. Nonobviousness can not be shown by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

II. Applicant's arguments (see Remarks filed, 11/29/2007) further aver:

More particularly, Blades' count suggests nothing about determining an initial time that a previous utterance uttered by a user ended, as expressly recited in Claims 1, 10, and 19. Blades' count likewise fails to suggest next determining a succeeding time that the utterance of the uttered one of a voice command started, as also expressly recited in Claims 1, 10, and 19.

(page 11, Remarks). The Examiner agrees that Blades is deficient in this respect, However, *White* and *Namba* were also combined to suggest the claimed limitations. See above.

III. Applicant's arguments (see Remarks filed, 11/29/2007) stress:

Accordingly, not White, Blades, or Namba teaches or suggests every feature recited in Claims 1, 10, and 19. Applicants respectfully submit, therefore, that Claims 1, 10, and 19 each define over the prior art.

The Examiner respectfully disagrees for at least the following reasons: the Rejections under 35 U.S.C. §103(a) were based on *White*, *Blades*, and *Namba* in combination, not individually.

## CONCLUSION

8. All prior art made of record in this Office Action or as cited on form PTO-892 notwithstanding being relied upon, is considered pertinent to applicant's disclosure. Therefore, Applicant is required under 37 CFR §1.111(c) to consider these references fully when responding to this Office Action.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samir Termanini at telephone number is (571) 270-1047. The Examiner can normally be reached from 9 A.M. to 6 P.M., Monday through Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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